APPENDIX.

Text of essential portion of New York Statutes and Rule relied on and referred to in this application with applicable parts italicized for convenience.

Section 40, subdivision 9 of the New York Surrogate's Court Act:

> "§40. GENERAL JURISDICTION OF SURROGATE'S COURT.
>
> "Each surrogate must hold, within his county, a court, which has, in addition to the powers conferred upon it, or upon the surrogate, by special provision of law, jurisdiction, as follows:
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> * * * * * *
>
> "9. To transfer, for trial in the surrogate's court of the counties of New York, Kings, Queens, Bronx, Richmond, Westchester and Nassau any action at law now pending or which may hereafter be brought in any court, other than the supreme court, in which the representative of an estate is a party or the trial and determination of which is necessary or appropriate to the completion of the administration of an estate pending in such surrogate's court; *and to receive for trial in the surrogate's court of any of the counties mentioned in this subdivision any such action pending in the supreme court which may by order of the supreme court be transferred to the surrogate's court of the counties mentioned in this subdivision, on the consent of the surrogate evidenced by an order or otherwise as may be prescribed by the rules of the surrogate's court having jurisdiction. In the event such transfer shall be made any party to such action so transferred may, pursuant to rule of the surrogate's court having jurisdiction, demand of right, a jury trial in the surrogate's court if such party was at the time of such transfer entitled to such trial under the practice of the court from which the transfer was made.*"

Section 41, subdivision 4 of the New York Surrogate's Court Act:

"§41. JURISDICTION OF PERSONS, PUBLIC OFFICERS, COMMISSIONS OR BODIES; WHEN AND HOW OBTAINED.

"The surrogate's court, in any action or proceeding before it, shall have jurisdiction of the following:

* * * * * *

"4. All parties to any action at law which pursuant to the provisions of the surrogate's court act or the civil practice act may be transferred to it."

Section 65, New York Surrogate's Court Act:

"§65. CONSOLIDATION OF ACTIONS AND PROCEEDINGS.

"At any time when two or more proceedings are pending involving in whole, or in part, the same matters, the surrogate may, in his discretion, consolidate such proceedings upon such terms as shall appear to him to be equitable and just; but without prejudice to the power of the surrogate to make any subsequent order or decree in either or any of them. *The surrogate shall have like power to consolidate with any proceeding an action at law transferred to the surrogate's court of the counties of New York, Kings, Queens, Bronx, Richmond, Westchester and Nassau.*"

Section 168, New York Civil Practice Act:

"§168. STAY UPON APPLICATION FOR REMOVAL OF ACTION TO SURROGATE'S COURT OR SUPREME COURT.

"An order to stay proceedings for the purpose of affording an opportunity to make application for removal of an action to the surrogate's court of the counties of *New York,* Kings, Queens, Bronx, Richmond, Westchester and Nassau, or to

the supreme court may be made by the surrogate, the county judge or a judge authorized to make such an order in the supreme court, and with like effect and under like circumstances."

Section 190-a, New York Civil Practice Act:

"§190-a. REMOVAL OF ACTION TO SURROGATE'S COURT FROM SUPREME COURT.

"The supreme court upon the application of either party to an action at law pending therein may, in its discretion and upon the prior order of the surrogate of the counties of *New York*, Kings, Queens, Bronx, Richmond, Westchester and Nassau transfer to a surrogate's court of the counties mentioned in this section having jurisdiction of the administration of a decedent's estate, any action at law pending in such supreme court affecting the administration of such estate. The order of transfer shall be effective from the entry thereof in the office of the county clerk. The right of jury trial, if any, shall be preserved and the subsequent proceedings in the surrogate's court of the counties mentioned in this section shall otherwise be in accordance with the practice and procedure in such court. (Added L. 1934, ch. 352, in effect Sept. 1; L. 1936, ch. 199, in effect March 28, adding 'and Nassau.')"

Rule XI, Surrogate's Court, New York County:

"XI. CONTESTED ACCOUNTINGS.

"*On any accounting* by an executor, administrator, temporary administrator, guardian or *trustee any* creditor or *other party interested may file objections thereto in writing at any time within eight days after the account is marked for decree or within such further or other time as shall be allowed by the surrogate. Such objections must be served upon the accounting party or his attorney before the filing thereof in this court.* A special guardian appointed in an accounting proceeding shall file his report or objections within eight days after his appointment unless for cause shown his time to file such report or objections be extended by the surrogate."